

EXHIBIT A

#11

SUMMONS (CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 04 2023

By Abrianna Rodriguez Deputy

NOTICE TO DEFENDANT: JOHNSON & JOHNSON CONSUMER INC., a New Jersey Corporation; COSTCO WHOLESALE CORPORATION, a Washington Corporation; and DOES 1 through 50,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ANDREAS LYMPERPOULOS

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: San Bernardino County Superior Court
(El nombre y dirección de la corte es): Civil Division of the San Bernardino District

247 West Third Street, San Bernardino CA 92415-0210

CASE NUMBER:
(Número del Caso):

CIV SB 2228813

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Robert J. Reynolds - Bar No. 151243
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

16950 Via de Santa Fe, Suite 5060-145, Rancho Santa Fe, CA 92067, Telephone: (619) 261-3393

DATE:

APR 04 2023

Clerk, by

(Secretario)

Abrianna Rodriguez

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

FAXED

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☒ on behalf of (specify): JOHNSON & JOHNSON CONSUMER INC., a New Jersey Corporation
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
- ☐ by personal delivery on (date):

Page 1 of 1

LAW OFFICES OF ROBERT J. REYNOLDS
Robert J. Reynolds - Bar No. 151243

16950 Via de Santa Fe, Suite 5060-145
Rancho Santa Fe, CA 92067
Telephone: (619) 261-3393
Facsimile: (815) 642-9527

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 27 2022

ATTORNEYS FOR: PLAINTIFF, ANDREAS
LYMPEROPOULOS

By *Abrianna Rodriguez* Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO - SAN BERNARDINO DISTRICT

ANDREAS LYMPEROPOULOS,

Plaintiff,

v.

JOHNSON & JOHNSON CONSUMER
INC., a New Jersey Corporation;
COSTCO WHOLESALE CORPORATION, a
Washington Corporation; and
DOES 1 through 50,
Defendants.

CASE NO. CIV SB 2228013

COMPLAINT FOR DAMAGES

UNLIMITED JURISDICTION

Comes now the Plaintiff, ANDREAS LYMPEROPOULOS, who alleges the
following:

INTRODUCTION



1. Plaintiff brings the following action for Products Liability, is, and at all times
herein mentioned was, a resident of the County of San Bernardino within the San
Bernardino District of the Superior Court of the County of San Bernardino, California.

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///

///

PARTIES

PLAINTIFF

2. Plaintiff is a natural person who, at all times herein mentioned was, a resident of the County of San Bernardino within the jurisdiction of the San Bernardino District of the Superior Court of the County of San Bernardino, California.

DEFENDANTS

3. Defendant JOHNSON & JOHNSON CONSUMER INC., hereinafter referred to as "JAJCI," is and, at all times mentioned in this complaint, was a corporation doing business within the County of San Bernardino within the jurisdiction of the San Bernardino District of the Superior Court of the County of San Bernardino, California.

4. Defendant COSTCO WHOLESALE CORPORATION, hereinafter referred to as "CWC," is and, at all times mentioned in this complaint, was a corporation doing business within the County of San Bernardino within the jurisdiction of the San Bernardino District of the Superior Court of the County of San Bernardino, California.

SUBJECT PRODUCTS

5. Defendant JAJCI is, and at all times herein mentioned was, engaged in the business of designing, manufacturing, and assembling sunscreen products for sale to and use by members of the general public, and as a part of its business Defendant designed, manufactured, and assembled the specific defective product hereinafter referred to as Neutrogena SPF 70 Spray.

6. Defendant JAJCI is, and at all times herein mentioned was, engaged in the business of designing, manufacturing, and assembling sunscreen products for sale to and use by members of the general public, and as a part of its business Defendant designed, manufactured, and assembled the specific defective product hereinafter referred to as Neutrogena SPF 60 + Spray.

7. The Neutrogena SPF 70 Spray and Neutrogena SPF 60 + are hereinafter referred to as "THE SUBJECT PRODUCTS." The true and correct trade names of THE SUBJECT PRODUCTS are uncertain but the names, hereinabove, are those provided

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1 to Plaintiff by Defendant CWC when CWC provided a list to Plaintiff of recalled items
2 purchased by Plaintiff.

3 8. CWC is, and at all times herein mentioned was, engaged in the business of selling
4 at retail to members of the general public in San Bernardino County and Riverside
5 County in the state of California Neutrogena SPF 70 Spray and Neutrogena SPF 60 +
6 Spray manufactured, designed, and assembled by Defendant JAJCI.

7 9. Defendant JAJCI intended that THE SUBJECT PRODUCTS manufactured,
8 designed, and assembled by it be used to protect the Plaintiff's skin from the sun and to
9 fight environmental aggressors with broad spectrum UVA/UVB protection and
10 antioxidants.

11 10. At all times herein mentioned, Defendants JAJCI and CWC knew and intended
12 that THE SUBJECT PRODUCTS would be purchased by members of the public and
13 used by the purchasers and others without inspection for defects.

14 11. On or about June 28, 2017, May 11, 2018, June 7, 2019, April 26, 2020 and April
15 20, 2021, Plaintiff or Plaintiff's family member purchased THE SUBJECT
16 PRODUCTS from Defendant CWC at its place of business hereinabove alleged.

17 12. Plaintiff was the only member of his family to use THE SUBJECT PRODUCTS
18 purchased on the five occasions described herein.

19 13. THE SUBJECT PRODUCTS were unsafe for its intended use by reason of a
20 defect in its design, manufacture, and assembly which allowed it to contain substances
21 that Defendants knew or should have known were reasonably foreseeable causes of
22 injury and damage to the users of such product.

23 14. THE SUBJECT PRODUCTS, purchased by plaintiff or his family member, for
24 Plaintiff's exclusive use from Defendants as herein alleged, were at the time of
25 purchase defective and unsafe for their intended use in they contained the ingredient
26 Benzene, which is classified as a human carcinogen, a substance that could potentially
27 cause cancer depending on the level and extent of exposure, and Defendants failed to
28

1 give plaintiff any notice thereof or to warn plaintiff of the danger of breathing or
2 exposure to that ingredient.

3 **FICTITIOUSLY NAMED DEFENDANTS**

4 15. Plaintiff is ignorant of the true names and capacities of defendants sued in this
5 complaint as DOE 1 through DOE 100, inclusive, and therefore sues these defendants
6 by such fictitious names. Plaintiff will amend this complaint to allege their true names
7 and capacities when ascertained. Plaintiff is informed and believes and thereon alleges,
8 that each of the fictitiously named defendants is responsible in some manner for the
9 occurrences alleged in this complaint, and Plaintiff's injuries as herein alleged were
10 proximately caused by defendants' negligence. Plaintiff is informed and believes and
11 thereon alleges that each of these fictitiously named defendants is, and at all times
12 herein mentioned was, in the business of manufacturing, fabricating, assembling,
13 inspecting, and selling THE SUBJECT PRODUCTS.

14 **AGENCY**

15 16. At all times mentioned in this complaint, Defendants, and each of them, were the
16 agents or employees of one another, or partners with one another, and, in doing the
17 things alleged below, acted within the scope of the agency or partnership.

18 **JURISDICTION**

19 17. This Court has subject matter jurisdiction over this action as the amount in
20 controversy for each plaintiff exceeds \$25,000.

21 18. This Court has personal jurisdiction over Defendants, and each of them, because
22 Defendants, and each of them, committed the acts that form the basis for this suit in the
23 state of California, or THE SUBJECT PRODUCTS were offered for sale and
24 purchased by Plaintiff within the jurisdiction of this Court.

25 19. Venue is proper in the San Bernardino District of the San Bernardino County
26 Superior Court because THE SUBJECT PRODUCTS were sold and purchased, and the
27 injuries to Plaintiff described herein occurred, within the jurisdiction of the San
28 Bernardino District of the San Bernardino County Superior Court.

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RECALL ANNOUNCEMENT

20. On or about July 14, 2021, Defendant JAJCI announced, and the FDA Published a recall, hereinafter “THE RECALL” for certain consumer products in the “drug” category.

21. Reason for THE RECALL Announcement described above was that product testing of THE SUBJECT PRODUCTS identified low levels of benzene.

22. JAJCI was identified as the Named Company with regard to THE RECALL.

23. The Brand Name which was the subject of THE RECALL included Neutrogena.

24. The Product Description pertaining to THE RECALL was Sunscreen.

25. THE RECALL announcement included the following language from JAJCI:

- a. Johnson & Johnson Consumer Inc. (JJCI) is voluntarily recalling all lots of five NEUTROGENA® and AVEENO® aerosol sunscreen product lines to the consumer level. Internal testing identified low levels of benzene in some samples of the products. Consumers should stop using the affected products and follow the instructions set forth below.
- b. The only sunscreen products impacted are aerosol products, specifically:
 - i. NEUTROGENA® Beach Defense® aerosol sunscreen,
 - ii. NEUTROGENA® Cool Dry Sport aerosol sunscreen,
 - iii. NEUTROGENA® Invisible Daily™ defense aerosol sunscreen,
 - iv. NEUTROGENA® Ultra Sheer® aerosol sunscreen.
- c. Benzene is classified as a human carcinogen, a substance that could potentially cause cancer depending on the level and extent of exposure. Benzene is ubiquitous in the environment. Humans around the world have daily exposures indoors and outdoors from multiple sources. Benzene can be absorbed, to varying degrees, by inhalation, through the skin, and orally. Based on exposure modeling and the Environmental Protection Agency’s (EPA) framework, daily exposure to benzene in these aerosol sunscreen products at the levels detected in our testing would not be expected to cause

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adverse health consequences. Out of an abundance of caution, we are recalling all lots of these specific aerosol sunscreen products.

- d. While benzene is not an ingredient in any of our sunscreen products, it was detected in some samples of the impacted aerosol sunscreen finished products. We are investigating the cause of this issue, which is limited to certain aerosol sunscreen products.
- e. Sunscreen use is critical to public health. Melanoma incidences continue to increase worldwide, and the majority of cases are caused by excessive sun exposure. It is important that people everywhere continue to take appropriate sun protection measures, including the continued use of alternative sunscreen.
- f. The recalled sunscreen products are packaged in aerosol cans. The products were distributed nationwide through a variety of retail channels.
- g. Consumers should stop using these specific products and appropriately discard them. Consumers may contact the JJCI Consumer Care Center 24/7 with questions or to request a refund by calling 1-800-458-1673. Consumers should contact their physician or healthcare provider if they have any questions, concerns or have experienced any problems related to using these aerosol sunscreen products. JJCI is also notifying its distributors and retailers by letter and is arranging for returns of all recalled products.

26. Plaintiff learned of THE RECALL at or about August 2021.

FIRST CAUSE OF ACTION

(Strict Liability in Tort)

27. Plaintiff realleges the preceding allegations of this Complaint and incorporates the same as if fully set forth herein.

28. THE SUBJECT PRODUCTS were , at the time Plaintiff purchased them as herein alleged, defective and unsafe for their intended purpose as described above, resulting in THE RECALL.

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1 29. From On or about June 28, 2017 through approximately August 2021, plaintiff
2 was using THE SUBJECT PRODUCTS for the purpose of protecting his skin from the
3 adverse affects of sub exposure. During the course of this use and as a proximate result
4 of the defect hereinabove described, on or about December 24, 2020, Plaintiff
5 perceived an injury to his body, sought medical treatment and was diagnosed with
6 hairy cell leukemia, from which he experienced severe pancytopenia and needed urgent
7 treatment with cladribine and rituximab therapy.

8 30. Hairy cell leukemia is a diagnosis that typical occurs as a median age of 55; this
9 rare diagnosis is even more rare in those aged 30-50 with one study in Sweden,
10 estimating about 3 cases per million people, per year.

11 31. As a proximate result of the defect and the onset of hairy cell leukemia as herein
12 alleged, plaintiff sustained serious and permanent injuries to his health, strength, and
13 activity, severe shock to his nervous system, and was caused to suffer extreme physical
14 and mental pain, all to his general damage.

15 32. As a proximate result of the defect and the onset of hairy cell leukemia as herein
16 alleged, and injuries sustained by plaintiff as herein alleged, plaintiff was required to
17 and did employ physicians, surgeons, and other medical personnel and incurred
18 expenses therefor, and incurred additional medical expense for hospital bills and other
19 incidental medical expenses, all to his further damage in an amount that has not yet
20 been fully ascertained, and plaintiff will seek leave to amend this complaint to insert
21 the true amount thereof when ascertained.

22 33. As a proximate result of the defect and the onset of hairy cell leukemia as herein
23 alleged, plaintiff will be required to incur additional medical expense all to his further
24 damage in an amount not yet ascertained. Plaintiff will seek leave of court to amend
25 this complaint to insert the true amount thereof when ascertained.

26 34. As a proximate result of the defect and the onset of hairy cell leukemia as herein
27 alleged, plaintiff was prevented from attending to his usual occupation or profession,
28 and thereby lost earnings all to his further damage.

1 35. As a proximate result of the defect and the onset of hairy cell leukemia as herein
2 alleged, Plaintiff is informed and believes and thereon alleges that he will thereby be
3 further prevented from attending to his usual occupation or profession in the future and
4 will thereby sustain future loss of earnings all to his further damage in an amount not
5 yet ascertained. Plaintiff will seek leave of court to amend this complaint to insert the
6 true amount thereof when ascertained.

7 **SECOND CAUSE OF ACTION**

8 **(Negligence)**

9 36. Plaintiff realleges the preceding allegations of this Complaint and incorporates the
10 same as if fully set forth herein.

11 37. Defendants had a duty to use due care in designing, manufacturing, assembling,
12 marketing and selling THE SUBJECT PRODUCTS so that the products were not
13 defective.

14 38. Defendants breached this duty by placing THE SUBJECT PRODUCT, a defective
15 product, into the stream of commerce when it either knew or should have known its
16 defective nature and potential to harm members of the general public and to Plaintiffs.

17 39. As a proximate result of defendants' negligence, THE SUBJECT PRODUCT, a
18 defective product, was specify distributed, marketed, and sold to plaintiff, causing
19 severe and permanent personal injuries as described, above.

20 40. All of the injuries and damages described hereinabove were resulting from the
21 negligence of the Defendants, and each of them.

22 **THIRD CAUSE OF ACTION**

23 **(Breach of Warranty)**

24 41. Plaintiff realleges the preceding allegations of this Complaint and incorporates the
25 same as if fully set forth herein.

26 42. Defendants, the designer, manufacturer, assembler, marketer and seller of THE
27 SUBJECT PRODUCT, expressly warranted that THE SUBJECT PRODUCTS were fit
28

1 for their intended purpose to protect the Plaintiff's skin from the sun and to fight
2 environmental aggressors with broad spectrum UVA/UVB protection and antioxidants.

3 43. An implied warranty arose with the sale of THE SUBJECT PRODUCTS that the
4 products were fit for their intended purpose.

5 44. Defendants impliedly warranted that THE SUBJECT PRODUCTS were fit for the
6 purpose for which plaintiff intended to use them, and knew the particular purpose for
7 which the plaintiff intended to use the products. Plaintiff relied on defendants' skill and
8 judgment in purchasing and using THE SUBJECT PRODUCT.

9 45. Plaintiff did not modify or alter THE SUBJECT PRODUCT.

10 46. THE SUBJECT PRODUCTS were defective when they left the Defendants'
11 control. THE SUBJECT PRODUCTS were unfit for their intended purpose, and
12 plaintiff did not receive THE SUBJECT PRODUCTS as warranted.

13 47. As the proximate result of defendants' breach of express and implied warranties,
14 plaintiff suffered severe and permanent personal injuries.

15 48. All of the injuries and damages described hereinabove were resulting from the
16 Defendants, and each of their, breach of the express and implied warranties alleged
17 herein.

18 **FOURTH CAUSE OF ACTION**
19 **(Misrepresentation)**

20 49. Plaintiff realleges the preceding allegations of this Complaint and incorporates the
21 same as if fully set forth herein.

22 50. Defendants manufactured, marketed, distributed and sold THE SUBJECT
23 PRODUCTS in stores located in California, through catalogs, magazines, newspapers,
24 and other publications, and through its website on the Internet.

25 51. Defendants willfully, falsely, and intentionally misrepresented material facts
26 relating to the nature, quality, performance, and safety of THE SUBJECT PRODUCT.
27 These misrepresentations appeared in the catalogs, magazines, and newspapers, as well
28 as on defendant's website. Defendants were aware that THE SUBJECT PRODUCTS

1 were dangerous in that they contained the ingredients noted in THE RECALL,
2 including benzene, but made no mention of the dangers and continued to manufacture,
3 market, distribute, and sell the product as safe.

4 52. Plaintiff relied to his detriment on Defendants' misrepresentations regarding THE
5 SUBJECT PRODUCTS in purchasing and using the products. As a result of
6 Defendants' fraudulent acts and omissions, plaintiffs sustained serious and permanent
7 personal injuries.

8 53. All of the injuries and damages described hereinabove were resulting from the
9 Defendants, and each of their, breach of the express and implied warranties alleged
10 herein.

11 **WHEREFORE**, plaintiff prays judgment as follows:

- 12 1. For general damages according to proof;
- 13 2. For special damages for medical and incidental expenses according to proof;
- 14 3. For loss of earnings or earnings capacity, past present and prospective or
15 according to proof;
- 16 4. For costs of suit herein incurred; and
- 17 5. For such other and further relief as the court may deem proper.

18 Dated: December 20, 2022

19 LAW OFFICES OF ROBERT J. REYNOLDS

20 

21 ROBERT J. REYNOLDS,
22 Attorney at Law
23 Attorney for Plaintiff
24 Andreas Lymperopoulos
25
26
27
28

LAW OFFICES OF ROBERT J. REYNOLDS
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**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO**

San Bernardino District
247 West 3rd St
San Bernardino CA 92415
www.sb-court.org
909-708-8678

LYMPEROPOULOS -v- JOHNSON & JOHNSON CONSUMER INC. et al

NOTICE OF TRIAL SETTING CONFERENCE and NOTICE OF CASE ASSIGNMENT

Case Number

CIVSB2228813

Robert James Reynolds
Ste 5060-145
Rancho Santa F CA 92091

This case has been assigned to: Donald Alvarez in Department S23 - SBJC for all purposes.

Notice is hereby given that the above-entitled case has been set for Trial Setting Conference on:

Hearing Date: 10/04/2023 at 8:30 AM in Department S23 - SBJC

Date: 4/4/2023

By:

Abrianna Rodriguez, Deputy Clerk**CERTIFICATE OF SERVICE**

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above-listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above-listed notice by:

X Enclosed in a sealed envelope mailed to the interested party addressed above for collection and mailing this date, following standard Court practices.

- ☐ Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above or as shown on the attached listing.
- ☐ A copy of this notice was given to the filing party at the counter.
- ☐ A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file-stamped documents.

Date of Mailing: 4/4/2023

I declare under penalty of perjury that the forgoing is true and correct. Executed on 4/4/2023 at San Bernardino, CA.

By:

Abrianna Rodriguez, Deputy Clerk

#23

SUMMONS (CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
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FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 04 2023

By Abrianna Rodriguez Deputy

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The name and address of the court is: San Bernardino County Superior Court
(El nombre y dirección de la corte es): Civil Division of the San Bernardino District

247 West Third Street, San Bernardino CA 92415-0210

CASE NUMBER:
(Número del Caso):

CIV SB 2228813

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Robert J. Reynolds - Bar No. 151243
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

16950 Via de Santa Fe, Suite 5060-145, Rancho Santa Fe, CA 92067, Telephone: (619) 261-3393

DATE:

(Fecha)

APR 04 2023

Clerk, by

(Secretario)

Abrianna Rodriguez

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☒ on behalf of (specify): COSTCO WHOLESALE CORPORATION, a Washington Corporation
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
- ☐ by personal delivery on (date):

FAXED

Page 1 of 1

LAW OFFICES OF ROBERT J. REYNOLDS
Robert J. Reynolds - Bar No. 151243

16950 Via de Santa Fe, Suite 5060-145
Rancho Santa Fe, CA 92067
Telephone: (619) 261-3393
Facsimile: (815) 642-9527

ATTORNEYS FOR: PLAINTIFF, ANDREAS
LYMPEROPOULOS

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 27 2022

By [Signature] Deputy
Abrianna Rodriguez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO - SAN BERNARDINO DISTRICT

ANDREAS LYMPEROPOULOS,
Plaintiff,

v.

JOHNSON & JOHNSON CONSUMER
INC., a New Jersey Corporation;
COSTCO WHOLESALE CORPORATION, a
Washington Corporation; and
DOES 1 through 50,
Defendants.

CASE NO. CIV SB 2228813
COMPLAINT FOR DAMAGES
UNLIMITED JURISDICTION

Comes now the Plaintiff, ANDREAS LYMPEROPOULOS, who alleges the
following:

INTRODUCTION

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1. Plaintiff brings the following action for Products Liability, is, and at all times
herein mentioned was, a resident of the County of San Bernardino within the San
Bernardino District of the Superior Court of the County of San Bernardino, California.

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///

PARTIES

PLAINTIFF

2. Plaintiff is a natural person who, at all times herein mentioned was, a resident of the County of San Bernardino within the jurisdiction of the San Bernardino District of the Superior Court of the County of San Bernardino, California.

DEFENDANTS

3. Defendant JOHNSON & JOHNSON CONSUMER INC., hereinafter referred to as "JAJCI," is and, at all times mentioned in this complaint, was a corporation doing business within the County of San Bernardino within the jurisdiction of the San Bernardino District of the Superior Court of the County of San Bernardino, California.

4. Defendant COSTCO WHOLESALE CORPORATION, hereinafter referred to as "CWC," is and, at all times mentioned in this complaint, was a corporation doing business within the County of San Bernardino within the jurisdiction of the San Bernardino District of the Superior Court of the County of San Bernardino, California.

SUBJECT PRODUCTS

5. Defendant JAJCI is, and at all times herein mentioned was, engaged in the business of designing, manufacturing, and assembling sunscreen products for sale to and use by members of the general public, and as a part of its business Defendant designed, manufactured, and assembled the specific defective product hereinafter referred to as Neutrogena SPF 70 Spray.

6. Defendant JAJCI is, and at all times herein mentioned was, engaged in the business of designing, manufacturing, and assembling sunscreen products for sale to and use by members of the general public, and as a part of its business Defendant designed, manufactured, and assembled the specific defective product hereinafter referred to as Neutrogena SPF 60 + Spray.

7. The Neutrogena SPF 70 Spray and Neutrogena SPF 60 + are hereinafter referred to as "THE SUBJECT PRODUCTS." The true and correct trade names of THE SUBJECT PRODUCTS are uncertain but the names, hereinabove, are those provided

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1 to Plaintiff by Defendant CWC when CWC provided a list to Plaintiff of recalled items
2 purchased by Plaintiff.

3 8. CWC is, and at all times herein mentioned was, engaged in the business of selling
4 at retail to members of the general public in San Bernardino County and Riverside
5 County in the state of California Neutrogena SPF 70 Spray and Neutrogena SPF 60 +
6 Spray manufactured, designed, and assembled by Defendant JAJCI.

7 9. Defendant JAJCI intended that THE SUBJECT PRODUCTS manufactured,
8 designed, and assembled by it be used to protect the Plaintiff's skin from the sun and to
9 fight environmental aggressors with broad spectrum UVA/UVB protection and
10 antioxidants.

11 10. At all times herein mentioned, Defendants JAJCI and CWC knew and intended
12 that THE SUBJECT PRODUCTS would be purchased by members of the public and
13 used by the purchasers and others without inspection for defects.

14 11. On or about June 28, 2017, May 11, 2018, June 7, 2019, April 26, 2020 and April
15 20, 2021, Plaintiff or Plaintiff's family member purchased THE SUBJECT
16 PRODUCTS from Defendant CWC at its place of business hereinabove alleged.

17 12. Plaintiff was the only member of his family to use THE SUBJECT PRODUCTS
18 purchased on the five occasions described herein.

19 13. THE SUBJECT PRODUCTS were unsafe for its intended use by reason of a
20 defect in its design, manufacture, and assembly which allowed it to contain substances
21 that Defendants knew or should have known were reasonably foreseeable causes of
22 injury and damage to the users of such product.

23 14. THE SUBJECT PRODUCTS, purchased by plaintiff or his family member, for
24 Plaintiff's exclusive use from Defendants as herein alleged, were at the time of
25 purchase defective and unsafe for their intended use in they contained the ingredient
26 Benzene, which is classified as a human carcinogen, a substance that could potentially
27 cause cancer depending on the level and extent of exposure, and Defendants failed to
28

1 give plaintiff any notice thereof or to warn plaintiff of the danger of breathing or
2 exposure to that ingredient.

3 **FICTITIOUSLY NAMED DEFENDANTS**

4 15. Plaintiff is ignorant of the true names and capacities of defendants sued in this
5 complaint as DOE 1 through DOE 100, inclusive, and therefore sues these defendants
6 by such fictitious names. Plaintiff will amend this complaint to allege their true names
7 and capacities when ascertained. Plaintiff is informed and believes and thereon alleges,
8 that each of the fictitiously named defendants is responsible in some manner for the
9 occurrences alleged in this complaint, and Plaintiff's injuries as herein alleged were
10 proximately caused by defendants' negligence. Plaintiff is informed and believes and
11 thereon alleges that each of these fictitiously named defendants is, and at all times
12 herein mentioned was, in the business of manufacturing, fabricating, assembling,
13 inspecting, and selling THE SUBJECT PRODUCTS.

14 **AGENCY**

15 16. At all times mentioned in this complaint, Defendants, and each of them, were the
16 agents or employees of one another, or partners with one another, and, in doing the
17 things alleged below, acted within the scope of the agency or partnership.

18 **JURISDICTION**

19 17. This Court has subject matter jurisdiction over this action as the amount in
20 controversy for each plaintiff exceeds \$25,000.

21 18. This Court has personal jurisdiction over Defendants, and each of them, because
22 Defendants, and each of them, committed the acts that form the basis for this suit in the
23 state of California, or THE SUBJECT PRODUCTS were offered for sale and
24 purchased by Plaintiff within the jurisdiction of this Court.

25 19. Venue is proper in the San Bernardino District of the San Bernardino County
26 Superior Court because THE SUBJECT PRODUCTS were sold and purchased, and the
27 injuries to Plaintiff described herein occurred, within the jurisdiction of the San
28 Bernardino District of the San Bernardino County Superior Court.

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RECALL ANNOUNCEMENT

20. On or about July 14, 2021, Defendant JAJCI announced, and the FDA Published a recall, hereinafter “THE RECALL” for certain consumer products in the “drug” category.

21. Reason for THE RECALL Announcement described above was that product testing of THE SUBJECT PRODUCTS identified low levels of benzene.

22. JAJCI was identified as the Named Company with regard to THE RECALL.

23. The Brand Name which was the subject of THE RECALL included Neutrogena.

24. The Product Description pertaining to THE RECALL was Sunscreen.

25. THE RECALL announcement included the following language from JAJCI:

- a. Johnson & Johnson Consumer Inc. (JJCI) is voluntarily recalling all lots of five NEUTROGENA® and AVEENO® aerosol sunscreen product lines to the consumer level. Internal testing identified low levels of benzene in some samples of the products. Consumers should stop using the affected products and follow the instructions set forth below.
- b. The only sunscreen products impacted are aerosol products, specifically:
 - i. NEUTROGENA® Beach Defense® aerosol sunscreen,
 - ii. NEUTROGENA® Cool Dry Sport aerosol sunscreen,
 - iii. NEUTROGENA® Invisible Daily™ defense aerosol sunscreen,
 - iv. NEUTROGENA® Ultra Sheer® aerosol sunscreen.
- c. Benzene is classified as a human carcinogen, a substance that could potentially cause cancer depending on the level and extent of exposure. Benzene is ubiquitous in the environment. Humans around the world have daily exposures indoors and outdoors from multiple sources. Benzene can be absorbed, to varying degrees, by inhalation, through the skin, and orally. Based on exposure modeling and the Environmental Protection Agency’s (EPA) framework, daily exposure to benzene in these aerosol sunscreen products at the levels detected in our testing would not be expected to cause

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adverse health consequences. Out of an abundance of caution, we are recalling all lots of these specific aerosol sunscreen products.

- d. While benzene is not an ingredient in any of our sunscreen products, it was detected in some samples of the impacted aerosol sunscreen finished products. We are investigating the cause of this issue, which is limited to certain aerosol sunscreen products.
- e. Sunscreen use is critical to public health. Melanoma incidences continue to increase worldwide, and the majority of cases are caused by excessive sun exposure. It is important that people everywhere continue to take appropriate sun protection measures, including the continued use of alternative sunscreen.
- f. The recalled sunscreen products are packaged in aerosol cans. The products were distributed nationwide through a variety of retail channels.
- g. Consumers should stop using these specific products and appropriately discard them. Consumers may contact the JJCI Consumer Care Center 24/7 with questions or to request a refund by calling 1-800-458-1673. Consumers should contact their physician or healthcare provider if they have any questions, concerns or have experienced any problems related to using these aerosol sunscreen products. JJCI is also notifying its distributors and retailers by letter and is arranging for returns of all recalled products.

26. Plaintiff learned of THE RECALL at or about August 2021.

FIRST CAUSE OF ACTION

(Strict Liability in Tort)

27. Plaintiff realleges the preceding allegations of this Complaint and incorporates the same as if fully set forth herein.

28. THE SUBJECT PRODUCTS were , at the time Plaintiff purchased them as herein alleged, defective and unsafe for their intended purpose as described above, resulting in THE RECALL.

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1 29. From On or about June 28, 2017 through approximately August 2021, plaintiff
2 was using THE SUBJECT PRODUCTS for the purpose of protecting his skin from the
3 adverse affects of sub exposure. During the course of this use and as a proximate result
4 of the defect hereinabove described, on or about December 24, 2020, Plaintiff
5 perceived an injury to his body, sought medical treatment and was diagnosed with
6 hairy cell leukemia, from which he experienced severe pancytopenia and needed urgent
7 treatment with cladribine and rituximab therapy.

8 30. Hairy cell leukemia is a diagnosis that typical occurs as a median age of 55; this
9 rare diagnosis is even more rare in those aged 30-50 with one study in Sweden,
10 estimating about 3 cases per million people, per year.

11 31. As a proximate result of the defect and the onset of hairy cell leukemia as herein
12 alleged, plaintiff sustained serious and permanent injuries to his health, strength, and
13 activity, severe shock to his nervous system, and was caused to suffer extreme physical
14 and mental pain, all to his general damage.

15 32. As a proximate result of the defect and the onset of hairy cell leukemia as herein
16 alleged, and injuries sustained by plaintiff as herein alleged, plaintiff was required to
17 and did employ physicians, surgeons, and other medical personnel and incurred
18 expenses therefor, and incurred additional medical expense for hospital bills and other
19 incidental medical expenses, all to his further damage in an amount that has not yet
20 been fully ascertained, and plaintiff will seek leave to amend this complaint to insert
21 the true amount thereof when ascertained.

22 33. As a proximate result of the defect and the onset of hairy cell leukemia as herein
23 alleged, plaintiff will be required to incur additional medical expense all to his further
24 damage in an amount not yet ascertained. Plaintiff will seek leave of court to amend
25 this complaint to insert the true amount thereof when ascertained.

26 34. As a proximate result of the defect and the onset of hairy cell leukemia as herein
27 alleged, plaintiff was prevented from attending to his usual occupation or profession,
28 and thereby lost earnings all to his further damage.

1 35. As a proximate result of the defect and the onset of hairy cell leukemia as herein
2 alleged, Plaintiff is informed and believes and thereon alleges that he will thereby be
3 further prevented from attending to his usual occupation or profession in the future and
4 will thereby sustain future loss of earnings all to his further damage in an amount not
5 yet ascertained. Plaintiff will seek leave of court to amend this complaint to insert the
6 true amount thereof when ascertained.

7 **SECOND CAUSE OF ACTION**

8 **(Negligence)**

9 36. Plaintiff realleges the preceding allegations of this Complaint and incorporates the
10 same as if fully set forth herein.

11 37. Defendants had a duty to use due care in designing, manufacturing, assembling,
12 marketing and selling THE SUBJECT PRODUCTS so that the products were not
13 defective.

14 38. Defendants breached this duty by placing THE SUBJECT PRODUCT, a defective
15 product, into the stream of commerce when it either knew or should have known its
16 defective nature and potential to harm members of the general public and to Plaintiffs.

17 39. As a proximate result of defendants' negligence, THE SUBJECT PRODUCT, a
18 defective product, was specify distributed, marketed, and sold to plaintiff, causing
19 severe and permanent personal injuries as described, above.

20 40. All of the injuries and damages described hereinabove were resulting from the
21 negligence of the Defendants, and each of them.

22 **THIRD CAUSE OF ACTION**

23 **(Breach of Warranty)**

24 41. Plaintiff realleges the preceding allegations of this Complaint and incorporates the
25 same as if fully set forth herein.

26 42. Defendants, the designer, manufacturer, assembler, marketer and seller of THE
27 SUBJECT PRODUCT, expressly warranted that THE SUBJECT PRODUCTS were fit
28

1 for their intended purpose to protect the Plaintiff's skin from the sun and to fight
2 environmental aggressors with broad spectrum UVA/UVB protection and antioxidants.

3 43. An implied warranty arose with the sale of THE SUBJECT PRODUCTS that the
4 products were fit for their intended purpose.

5 44. Defendants impliedly warranted that THE SUBJECT PRODUCTS were fit for the
6 purpose for which plaintiff intended to use them, and knew the particular purpose for
7 which the plaintiff intended to use the products. Plaintiff relied on defendants' skill and
8 judgment in purchasing and using THE SUBJECT PRODUCT.

9 45. Plaintiff did not modify or alter THE SUBJECT PRODUCT.

10 46. THE SUBJECT PRODUCTS were defective when they left the Defendants'
11 control. THE SUBJECT PRODUCTS were unfit for their intended purpose, and
12 plaintiff did not receive THE SUBJECT PRODUCTS as warranted.

13 47. As the proximate result of defendants' breach of express and implied warranties,
14 plaintiff suffered severe and permanent personal injuries.

15 48. All of the injuries and damages described hereinabove were resulting from the
16 Defendants, and each of their, breach of the express and implied warranties alleged
17 herein.

18 **FOURTH CAUSE OF ACTION**
19 **(Misrepresentation)**

20 49. Plaintiff realleges the preceding allegations of this Complaint and incorporates the
21 same as if fully set forth herein.

22 50. Defendants manufactured, marketed, distributed and sold THE SUBJECT
23 PRODUCTS in stores located in California, through catalogs, magazines, newspapers,
24 and other publications, and through its website on the Internet.

25 51. Defendants willfully, falsely, and intentionally misrepresented material facts
26 relating to the nature, quality, performance, and safety of THE SUBJECT PRODUCT.
27 These misrepresentations appeared in the catalogs, magazines, and newspapers, as well
28 as on defendant's website. Defendants were aware that THE SUBJECT PRODUCTS

1 were dangerous in that they contained the ingredients noted in THE RECALL,
2 including benzene, but made no mention of the dangers and continued to manufacture,
3 market, distribute, and sell the product as safe.

4 52. Plaintiff relied to his detriment on Defendants' misrepresentations regarding THE
5 SUBJECT PRODUCTS in purchasing and using the products. As a result of
6 Defendants' fraudulent acts and omissions, plaintiffs sustained serious and permanent
7 personal injuries.

8 53. All of the injuries and damages described hereinabove were resulting from the
9 Defendants, and each of their, breach of the express and implied warranties alleged
10 herein.

11 **WHEREFORE**, plaintiff prays judgment as follows:

- 12 1. For general damages according to proof;
- 13 2. For special damages for medical and incidental expenses according to proof;
- 14 3. For loss of earnings or earnings capacity, past present and prospective or
15 according to proof;
- 16 4. For costs of suit herein incurred; and
- 17 5. For such other and further relief as the court may deem proper.

18 Dated: December 20, 2022

19 LAW OFFICES OF ROBERT J. REYNOLDS

20 

21 ROBERT J. REYNOLDS,
22 Attorney at Law
23 Attorney for Plaintiff
24 Andreas Lymperopoulos
25
26
27
28

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**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO**

San Bernardino District
247 West 3rd St
San Bernardino CA 92415
www.sb-court.org
909-708-8678

LYMPEROPOULOS -v- JOHNSON & JOHNSON CONSUMER INC. et al

NOTICE OF TRIAL SETTING CONFERENCE and NOTICE OF CASE ASSIGNMENT

Case Number

CIVSB2228813

Robert James Reynolds
Ste 5060-145
Rancho Santa F CA 92091

This case has been assigned to: Donald Alvarez in Department S23 - SBJC for all purposes.

Notice is hereby given that the above-entitled case has been set for Trial Setting Conference on:

Hearing Date: 10/04/2023 at 8:30 AM in Department S23 - SBJC

Date: 4/4/2023

By:

Abrianna Rodriguez, Deputy Clerk**CERTIFICATE OF SERVICE**

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above-listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above-listed notice by:

X Enclosed in a sealed envelope mailed to the interested party addressed above for collection and mailing this date, following standard Court practices.

- ☐ Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above or as shown on the attached listing.
- ☐ A copy of this notice was given to the filing party at the counter.
- ☐ A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file-stamped documents.

Date of Mailing: 4/4/2023

I declare under penalty of perjury that the forgoing is true and correct. Executed on 4/4/2023 at San Bernardino, CA.

By:

Abrianna Rodriguez, Deputy Clerk